

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-14-06)
JUSTIN AND JULIE OGLE
JUNE 17, 2014

This is a report to the Flathead County Board of Adjustment regarding a request from Justin and Julie Ogle for a conditional use permit to establish a 'home occupation' for a HVAC shop on the subject property. The property is located within the Willow Glen Zoning District and is zoned 'R-1 Suburban Residential.'

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on July 1, 2014 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Council.

B. Board of Adjustment

This space is reserved for an update regarding the July 1, 2014 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

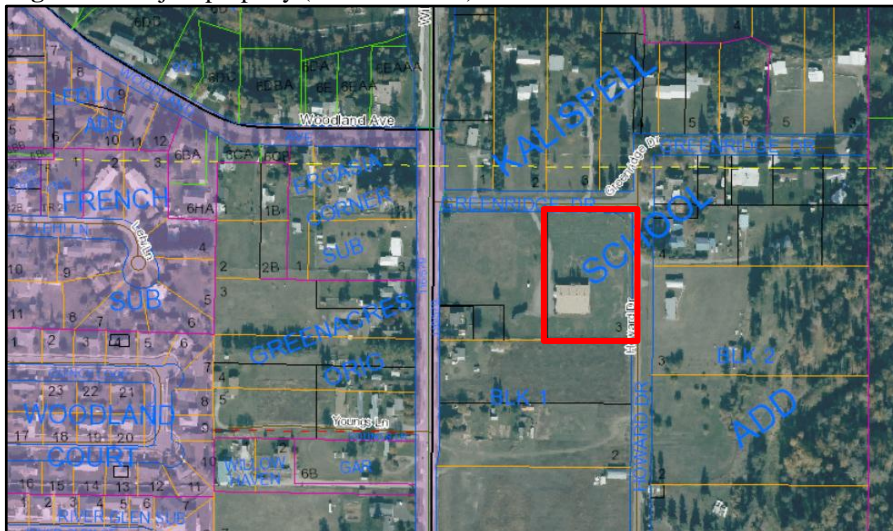
i. Landowner and Applicant

Justin and Julie Ogle
PO Box 607
Kila, MT 59920

B. Property Location and Size

The subject property is located at the 736 Greenridge Drive east of Kalispell, MT (see Figure 1 below). The property is approximately 2.3 acres in size and can be legally described as Lot 3 Tract B of Block 1 of Kalispell School Addition in Section 16, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in red)



C. Existing Land Use(s) and Zoning

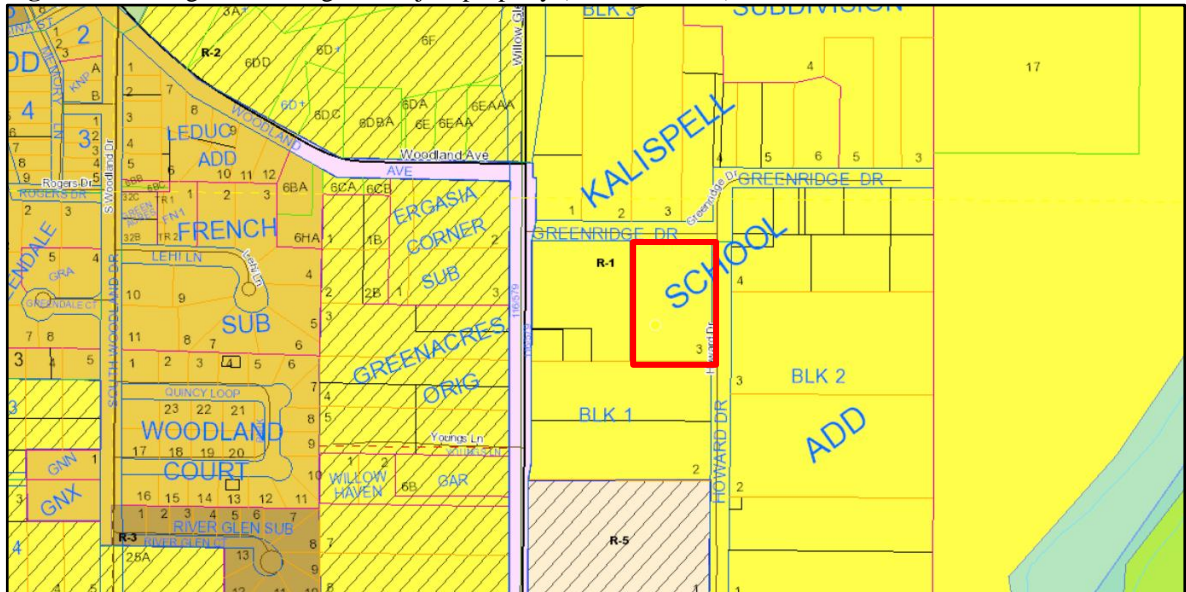
The property is located within the Willow Glen Zoning District and is zoned 'R-1 Suburban Residential.' R-1 is defined as, *"A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airports runway alignment extensions)."* per Section 3.09.010 FCZR.

The property is currently contains one large building with a few trees around the building and there is a white vinyl fence on the north, south and east sides of the property. The property is open and relatively flat.

D. Adjacent Land Use(s) and Zoning

The properties that surround the subject property to the north, south, east and west are similarly zoned R-1 and in the vicinity of the subject property is R-5 and R-2 zoning. The general character of the surrounding area is a large lot residential.

Figure 2: Zoning surrounding the subject property (outlined in red)



E. Summary of Request

The applicant is requesting a conditional use permit for a 'home occupation' on the subject property to allow for a HVAC shop on the subject property. The review of which is subject to specific guidelines set forth under Section 2.06.080 FCZR regarding criteria for the issuance of a conditional use permit and the performance standards for a home occupation found in Section 5.06 FCZR.

Per Section 7.09.020 a 'Home occupation' is defined as, *"Any use conducted entirely within the dwelling and carried on by the members of the family which use is clearly incidental and secondary to the dwelling for dwelling purposes and does not change the character thereof and in connection therewith are no commodities sold from the premises except that which is produced thereof, except as provided for in Section 5.06. Such uses may include, but are not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts provided that the use does not involve more than one-third of the total square footage of the dwelling."*

According to the site plan submitted the home occupation will occur in about 30% of the existing structure. The definition of building (found in Section 7.03.070) states, “*Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.*” Because the shop will be separated from every other portion of the structure by a division wall without openings the home occupation is considered to be located within a separate building. Therefore the home occupation will occur in an accessory building. The applicant has plans to build a future residence on the property and the currently proposed dwelling would become a guest house. Additionally, the applicant will have more than one employee other than a family member that does not reside on the property. Therefore, the applicant is requesting the conditional use permit to allow the use of an outbuilding or accessory structure to be used for a home occupation and to allow for more than one person other than a family residing on the premises to be engaged in such occupation, per Section 5.06.020(2).

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on June 13, 2014, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the June 15, 2014 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on May 20, 2014:

- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department’s jurisdiction and has the potential to impact county facilities.
- South Kalispell Fire Department
 - Reason: The property is located within the department’s jurisdiction and has the potential to impact South Kalispell Fire Department response times.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department’s jurisdiction.
- Flathead County Road and Bridge Department
 - Reason: The property is located within the department’s jurisdiction and new construction could impact County facilities.
- Flathead County Weeds and Parks Department
 - Reason: The property is located within the department’s jurisdiction and new construction could lead to the development of weeds on the subject property.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for July 1, 2014. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: “In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time.” Email dated May 22, 2014.
- Flathead City-County Health Department
 - Comment: “The proposed usage and development of this parcel would require review under the Sanitation in Subdivisions Act. This parcel was recently reviewed and approved for a single family dwelling (EQ# 14-1805). The addition of an HVACR business would require an additional approval for that use.” Letter dated June 4, 2014.
- Flathead County Solid Waste
 - Comment: “The district views no negative impact with solid waste issues at this time. The District requests that all solid waste generated at the proposed location be hauled by a private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission licensed hauler in this area.” Letter dated June 5, 2014
- Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated May 21, 2014
- Flathead County Weed, Parks & Recreation Department
 - Comment: “It is the landowners’ responsibility to control noxious weeds on their land – MCA Section 7-22-2116. A noxious weed is legally defined as ‘any exotic plant species that may render land unfit for agriculture, forestry, livestock, wildlife or other beneficial uses, or that may harm native plant communities.’ Most noxious weeds thrive when soil is disturbed. Some can grow from root parts, as well as seeds that become exposed. [...]. Vehicles entering and exiting the site during construction should be monitored for any weeds ‘hitchhiking’ on tires or attached to a vehicle.” Letter dated June 16, 2014.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate Usable Space

The subject property currently contains a building and a gravel driveway. The applicant is proposing to construct a future home on the property but will utilize the existing structure for a dwelling and the home occupation. The lot is approximately 100,188 square feet and in an R-1 zone the permitted lot coverage is 40%. The existing structure on the property is 96 feet by 80 feet and covers approximately 7,680 square feet. At this time the applicant is not proposing to construct any additional buildings, but has

plans to build a house approximately 2,800 square feet in size. The existing and future structure would cover approximately 10,480 square feet or 10.5% of the lot.

The minimum yard requirements within the R-1 zone are 20 feet for the front, rear, side and side corner for the principal structure. Detached accessory structures are required to be setback 20 feet from the front and side corner and 5 feet from the rear and side property line. The existing building and the future dwelling appear to meet applicable setback requirements, based on the submitted site plan.

Based upon staff's site visit and the submitted site plan, it appears the subject property has adequate useable space to accommodate the existing building and the future residents.

ii. Adequate Access

The subject property is located on the corner of Greenridge Drive and Howard Drive and accessed via Greenridge Drive. Greenridge Drive is a paved two lane local county road within a 60 foot easement. Comment from the Flathead Road and Bridge Department states, "At this point the County Road Department does not have any comments on this request."

The existing approach is approximately 18 feet wide at Greenridge Drive and widens to approximately 40 feet wide by the existing structure. The existing access would continue to provide ingress and egress to the property. All access shall be approved by the County Road and Bridge Department with the issuance of an approach permit, per Section 6.16.020(4) [FCZR].

iii. Absence of Environmental Constraints

The subject property is relatively flat with no significant elevation changes and is located on FEMA FIRM panel 30029C1820G. The lot is designated as un-shaded Zone X. The un-shaded Zone X is classified as an area determined to be outside the 0.2% annual chance floodplain. There are no wetlands, streams, or creeks located on the property, and there appears to be no other environmental constraints.

Finding #1 – The site appears suitable for the home occupation because the existing and proposed structures meet applicable bulk and dimensional requirements, there appears to be adequate access via a paved county road which may require a revised approach permit and there are currently no environmental impacts present on site.

B. Appropriateness of Design

i. Parking Scheme

Section 6.01.010 [FCZR] indicates a parking space for standard vehicles measures 9 feet by 20 feet and driving lanes for two-way traffic should be a minimum of 24 wide. A 24 foot wide driving lane with a parking space on each side is approximately 576 square feet. The parking apron and turn-around is ellipse shaped and approximately 100 feet long by 64 feet wide. The parking apron and turn-around area is approximately 5,102 square feet. When 576 is divided by the total space available of 5,102 square feet the total number of parking spaces can be determined. The proposed parking area would allow for approximately 9 vehicles.

The single family dwelling requires 2 spaces per dwelling unit. The home occupation states, "Vehicle traffic would not be increased by more than one (1) at a given time [...]." Therefore, 9 parking spaces would be adequate to serve the dwelling and home occupation.

ii. Traffic Circulation

The subject property is located on the corner of Greenridge Drive and Howard Drive and accessed via Greenridge Drive. Greenridge Drive is a paved two lane local county road within a 60 foot easement. The existing driveway will be utilized by the home occupation and the dwelling. The existing approach is approximately 18 feet wide at Greenridge Drive and widens to approximately 40 feet wide near the existing structure. The applicant is proposing to use an area of 5,102 square feet for parking apron and turn-around located in front of the existing structure. The apron and turn-around would allow for parking and still provide adequate space for traffic circulation and the driveway would provide ingress and egress to the property.

iii. Open Space

The subject property currently contains a building and a gravel driveway. The applicant is proposing to construct a future home on the property but will utilize the existing structure for a dwelling and the home occupation. The lot is approximately 100,188 square feet. In an R-1 zone the permitted lot coverage is 40%. The existing structure on the property is 96 feet by 80 feet and covers approximately 7,680 square feet. At this time the applicant is not proposing to construct any additional buildings, but has plans to build a house approximately 2,800 square feet in size. The existing and future structure would cover approximately 10,480 square feet or 10.5% of the lot.

Based upon staff's site visit and the submitted site plan, it appears the subject property has adequate open space to accommodate the existing building and the future residents.

iv. Fencing/Screening

There is currently a vinyl fence on the north, south and east side of the property. The applicant is proposing to install a privacy fence around the parking area. The existing white vinyl fencing will be utilized. The zoning designation and home occupation standards do not require any fencing or screening. All fencing constructed shall comply with Section 5.04 FCZR.

v. Landscaping

The applicant is proposing to plant trees and shrubs on the property and constructs a fire pit for personal use. No landscaping is required for the home occupation based on the applicable performance standards.

Finding #2 – The parking, traffic circulation, open space, fencing/screening and landscaping appears to be adequate for the proposed use because the parking apron and turn-around appears to meet applicable parking standards, while allowing for adequate traffic circulation, it appears the subject property has adequate open space to accommodate the existing building and the future residents and there are no parking, fencing/screening or landscape requirements for home occupations.

vi. Signage

The applicant is not proposing any signs as part of this request for a conditional use permit. Any signs installed on the property in the future, would require compliance with Section 5.03 FCZR.

vii. Lighting

The applicant is proposing exterior lighting on the side of the structure. Exterior lighting would be required to comply with the performance standards set forth in [FCZR] Section 5.12, which require that, "*All porch and yard lighting shall be hooded,*

screened or directed in a manner such that the light source or the diffuser emitting the light shall not be deleterious to the adjoining property owners or occupants.”

Finding #3 – The signage and lighting on the subject property appear adequate because the applicant is not proposing any signage and any lighting shall be conditioned to adhere to all applicable zoning regulations.

C. Availability of Public Services and Facilities

i. Sewer

The applicant is proposing to utilize an individual septic system for the dwelling and the home occupation. Comments from the Flathead County Environmental Health Department state, “The proposed usage and development of this parcel would require review under the Sanitation in Subdivisions Act. This parcel was recently reviewed and approved for a single family dwelling (EQ# 14-1805). The addition of an HVACR business would require an additional approval for that use.”

The septic system will be required to be reviewed and approved by the Flathead City-County Environmental Health Department prior to operation of the home occupation. This will be conditioned and verified after one year.

ii. Water

The applicant is proposing to utilize an individual well for the dwelling and the home occupation. Comments from the Flathead County Environmental Health Department state, “The proposed usage and development of this parcel would require review under the Sanitation in Subdivisions Act. This parcel was recently reviewed and approved for a single family dwelling (EQ# 14-1805). The addition of an HVACR business would require an additional approval for that use.”

The water system will be required to be reviewed and approved by the Flathead City-County Environmental Health Department prior to operation of the home occupation. This will be conditioned and verified after one year.

iii. Storm Water Drainage

The applicant is proposing to locate a new house in the future which would increase the impervious surface and storm water run-off. Currently storm water run-off is handled through on-site absorption and will continue to be handled through on-site absorption in the future. The applicant shall contact the Flathead City-County Environmental Health Department to determine if review will be required. This will be conditioned and verified after one year.

Finding #4 – There appears to be adequate availability of sewer, water and storm drainage for the proposed use because the property will be serviced by individual on-site septic and water systems and storm water run-off will be managed on-site.

iv. Fire Protection

The subject property is served by the South Kalispell Fire Department, and is located approximately one mile north of an existing fire station. Due to the close proximity to the fire station, it is anticipated response times in the event of an emergency would be reasonable.

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. It is anticipated response times in emergency would not be unreasonably long given the property's proximity to an urban, developed area of the County.

vi. Streets

The subject property is located on the corner of Greenridge Drive and Howard Drive and accessed via Greenridge Drive. Greenridge Drive is a paved two lane local county road within a 60 foot easement. Comment from the Flathead Road and Bridge Department states, "At this point the County Road Department does not have any comments on this request." It appears that the road is adequate to serve the proposed use.

Finding #5 – The proposed use appears to have acceptable impacts on streets, and police and fire protection because the South Kalispell Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by Greenridge Drive.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

The applicant states, "No more than 8 vehicle traffic (other than personal)." Section 5.06.020(1)(E), requires that, "*The home occupation shall not generate pedestrian or vehicle traffic in excess of that which is characteristic of the neighborhood in which it is located. Vehicle traffic would not be increased by more than one (1) at a given time or by more than eight (8) all day.*" The traffic generated by the residence would be 10 vehicle trips per day based on standard trip generation. Traffic generated by the proposed use would have a minimal impact on the neighborhood.

ii. Noise or Vibration

The application states, "All noise would be inside building with doors closed and with insulated properly. Neighbors will most likely not be able to hear work being done in shop." Per Section 5.06.020(C), "*No home occupation shall be conducted in a manner which will be detrimental to the residential use of said residence or cause a nuisance to surrounding residences, because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.*" It is anticipated that the proposed home occupation would generate noise and vibrations, but if the work is confined to the existing structure it would likely have a minimal impact on the neighborhood.

iii. Dust, Glare or Heat

The proposed use is not anticipated to create any heat or glare that would adversely impact the neighborhood. Per Section 5.06.020(C), "*No home occupation shall be conducted in a manner which will be detrimental to the residential use of said residence or cause a nuisance to surrounding residences, because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.*" The applicant anticipates minimal dust generated as the driveway is gravel. The dust would not be out of character for the neighborhood because the proposed home occupation would only increase traffic by 8 vehicle trip per day maximum and vehicles will travel at slow speeds on the driveway.

iv. Smoke, Fumes, Gas, or Odors

The applicant states, no smoke, fumes, gas or odors will be generated by the proposed use. Per Section 5.06.020(C), "*No home occupation shall be conducted in a manner*

which will be detrimental to the residential use of said residence or cause a nuisance to surrounding residences, because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.” It is anticipated that no smoke, fumes, gas or odors are anticipated to be generated by the proposed home occupation other than those typical of a residential zone.

Finding #6 – The immediate neighborhood impact from the proposed use is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors other than those typical of a residential area.

v. Inappropriate Hours of Operation

The applicant has stated that the hours will be between 7:30 AM and 6:00 PM. The property is located in a residential area but the proposed hours of operation would be daytime hours and unlikely to impact the immediate neighborhood.

Finding #7 – The proposed hours of operation are not anticipated to negatively impact the neighborhood because the proposed hours of operation would be between 7:30 AM and 6:00 PM hours.

V. SUMMARY OF FINDINGS

1. The site appears suitable for the home occupation because the existing and proposed structures meet applicable bulk and dimensional requirements, there appears to be adequate access via a paved county road which may require a revised approach permit and there are currently no environmental impacts present on site.
2. The parking, traffic circulation, open space, fencing/screening and landscaping appears to be adequate for the proposed use because the parking apron and turn-around appears to meet applicable parking standards, while allowing for adequate traffic circulation, it appears the subject property has adequate open space to accommodate the existing building and the future residents and there are no parking, fencing/screening or landscape requirements for home occupations.
3. The signage and lighting on the subject property appear adequate because the applicant is not proposing any signage and any lighting shall be conditioned to adhere to all applicable zoning regulations.
4. There appears to be adequate availability of sewer, water and storm drainage for the proposed use because the property will be serviced by individual on-site septic and water systems and storm water run-off will be managed on-site.
5. The proposed use appears to have acceptable impacts on streets, and police and fire protection because the South Kalispell Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by Greenridge Drive.
6. The immediate neighborhood impact from the proposed use is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors other than those typical of a residential area.
7. The proposed hours of operation are not anticipated to negatively impact the neighborhood because the proposed hours of operation would be between 7:30 AM and 6:00 PM hours.

VI. CONCLUSION

Upon review of this application, the request to allow for a 'home occupation' on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-14-06 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS OF APPROVAL

1. The 'home occupation' on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. All fencing installed on the property shall be in compliance with Section 5.04 of the Flathead County Zoning Regulations.
4. Current and future lighting installed on the property shall be in compliance with Section 5.12 of the Flathead County Zoning Regulations.
5. All structure shall be located in accordance with the minimum yard and maximum height requirements of the R-1 zoning district, pursuant to Section 3.09.040 of the Flathead County Zoning Regulations.
6. The applicant shall provide 2 parking spaces for the principal as required under Section 6.02.010 of the Flathead County Zoning Regulations and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front or side yard, per Section 6.06.020(D).
7. The proposed use shall be reviewed and approved by the Flathead City-County Department of Environmental Health in order to obtain a well, storm drain and septic permit applicable to the home occupation. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.
8. The proposed use shall be re-reviewed by the Flathead County Road and Bridge Department to obtain an updated approach permit. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.
9. The home occupation shall not generate pedestrian or vehicle traffic in excess of that which is characteristic of the neighborhood in which it is located. Vehicle traffic shall not be increased by more than one (1) at a given time or by more than eight (8) all day, per 5.06.020(E).
10. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of the activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
11. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: EKM